

FCC-MAIL SECTION

Federal Communications Commission

DA 00-304

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DISPATCH

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of Section 73.202(b),)	
Table of Allotments,)	
FM Broadcast Stations.)	
(Paxton, Nebraska)	)	MM Docket No. 99-159
	)	RM-9616
)	
(Overton, Nebraska)	)	MM Docket No. 99-160 ✓
	)	RM-9617
)	
(Hershey, Nebraska)	)	MM Docket No. 99-161
	)	RM-9565
)	
(Sutherland, Nebraska)	)	MM Docket No. 99-162
	)	RM-9566
)	
(Ravenna, Nebraska)	)	MM Docket No. 99-192
	)	RM-9633
)	

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: February 9, 2000**Released: February 18, 2000**

By the Chief, Allocations Branch:

1. The Commission has before it five Notices of Proposed Rule Making ("NPRMs"), specified below, setting forth separate proposals to allot channels to specific communities. Although these NPRMs were issued separately and the proposals are not mutually exclusive with each other, we are consolidating them in this Report and Order as part of our effort to expedite and make more efficient the FM allotment rule making process because these proceedings are uncontested. While consolidated, these dockets are still separate for finality purposes. In the event a reconsideration petition is directed to an action in a particular docket, a separate Memorandum Opinion and Order will resolve that reconsideration petition.

2. Mountain West Broadcasting ("Mountain West"), the petitioner in each proceeding, filed comments in support of its proposal reaffirming its intention to apply for the specified channel, if allotted. Central Nebraska Broadcasting Co., Inc. ("Central Nebraska"), licensee of Stations KODY(AM) and KXNP(FM), North Platte, Nebraska, filed reply comments in each of these proceedings, to which Mountain West responded. Central Nebraska opposes the allotment of an FM channel to any of the communities under consideration herein without first requiring the petitioner to

submit financial data demonstrating its ability to submit an application for a construction permit and participate in the auction for the channel. It points out that the Commission has issued approximately 124 Notices of Proposed Rule Making to allot new FM channels based on rule making petitions submitted by Mountain West or other corporate entities where Victor Michael, Jr. is the principal. The comments submitted on behalf of Central Nebraska raise the same issues submitted on behalf of Mitchell Broadcasting Co. of Iowa, in the rule making proceeding proposing the allotment of an FM channel to Pleasant Dale, Nebraska. See Pleasant Dale, Nebraska, 14 FCC Rcd 18893 (1999). In the Report and Order in that proceeding, we discussed at length the opposition comments as well as Midwest Radio's response and concluded that the public interest would not be served by requiring the petitioner to demonstrate its financial ability to construct and operate a station at the rule making stage. We find that the same reasoning applies in this proceeding and therefore incorporate by reference that portion of the Pleasant Dale decision herein. However, we would like to reiterate that should a pattern develop which leads to a concern that the Commission's processes are being abused, appropriate action could be taken at that time.

3. Each proposal complies with all Commission technical requirements, and we continue to believe that each proposal would serve the public interest. Accordingly, we adopt each proposal as originally proposed. These are as follows:

A. MM Docket No. 99-159, RM-9616, 14 FCC Rcd 7388 (1999)

Action: At the request of Mountain West Broadcasting, we are allotting Channel 228C1 to Paxton, Nebraska, as the community's first local aural service.

Coordinates: 41-06-48 NL; 101-21-12 WL.

Additional Information: This allotment requires no site restriction.

FCC Contact: Leslie K. Shapiro, (202) 418-2180.

B. MM Docket No. 99-160, RM-9617, 14 FCC Rcd 7388 (1999)

Action: At the request of Mountain West Broadcasting, we are allotting Channel 257C2 to Overton, Nebraska, as the community's first local aural service.

Coordinates: 40-44-24 NL; 99-42-06 WL.

Additional Information: This allotment requires a site restriction of 13.8 kilometers (8.6 miles) west to avoid a short-spacing to Station KKPR-FM, Channel 255C1, Kearney, Nebraska.

FCC Contact: Leslie K. Shapiro, (202) 418-2180.

C. MM Docket No. 99-161, RM-9565; 14 FCC Rcd 7397 (1999)

Action: At the request of Mountain West Broadcasting, we are allotting Channel 297C1 to Hershey, Nebraska, as the community's first local aural service.

Coordinates: 41-09-30 NL; 101-00-00 WL.

Additional Information: This allotment does not require a site restriction.

FCC Contact: Leslie K. Shapiro, (202) 418-2180.

D. MM Docket No. 99-162, RM-9566; 14 FCC Rcd 7397 (1999)

Action: At the request of Mountain West Broadcasting, we are allotting Channel 264C1 to Sutherland, Nebraska, as the community's first local aural service.

Coordinates: 41-09-30 NL; 101-07-36 WL.

Additional Information: This allotment does not require a site restriction.

FCC Contact: Leslie K. Shapiro, (202) 418-2180.

E. MM Docket No. 99-192, RM-9633; 14 FCC Rcd 8243 (1999)

Action: At the request of Mountain West Broadcasting, we are allotting Channel 276C2 to Ravenna, Nebraska, as the community's first local aural service.

Coordinates: 41-01-36 NL; 98-54-48 WL.

Additional Information: This allotment requires no site restriction.

FCC Contact: Leslie K. Shapiro, (202) 418-2180.

4. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective April 3, 2000, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the communities listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>
Hershey, Nebraska	297C1
Overton, Nebraska	257C2
Paxton, Nebraska	228C1
Ravenna, Nebraska	276C2
Sutherland, Nebraska	264C1

5. The filing window for these allotments will not be opened at this time. Instead, the issue of opening a filing window for these allotments will be addressed by the Commission in a subsequent order.

6. IT IS FURTHER ORDERED, That the aforementioned proceedings ARE TERMINATED.

7. For further information concerning a specific docket, contact the FCC Contact listed above for that docket. Questions related to the window application filing process should be addressed to the Audio Services Division, Mass Media Bureau, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau